

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**DAVID BRADEN,**

**Petitioner,**

**v.**

**MARGARET BAGLEY, Warden,**

**Respondent.**

**2:04-CV-842**

**JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Terence P. Kemp**

**OPINION AND ORDER**

Petitioner, a prisoner sentenced to death by the State of Ohio, has pending before this Court a habeas corpus action pursuant to 28 U.S.C. § 2254. This matter is before the Court on Respondent's motion to supplement the record (Doc. # 53).

Respondent seeks, pursuant to Rule 7 of the Rules Governing Section 2254 Cases, to add to the record before this Court "the trial transcripts and the trial court appendix." (Doc. # 53, at 1.) Respondent asserts that "the record is necessary to properly adjudicate Braden's motion for an evidentiary hearing." (*Id.* at 2.) Because Petitioner did not file a response, the Court presumes that Petitioner does not oppose Respondent's motion. It appears from the docket that the state court record, including all trial and postconviction transcripts, was filed on February 7, 2005 (Doc. # 19). Respondent has not specified and the Court cannot otherwise discern what transcripts or documents from the state court record might be missing. In any event, the Court is of the view that any transcripts or documents that were a part of the state court record are relevant to this Court's resolution of the petition sufficient to permit the Court pursuant to Rule 7 to grant Respondent's motion to supplement the record with the same. Thus, to the extent that any transcripts or documents that were a part of the state court record were not already filed in this habeas corpus

proceeding, they may be added pursuant to Rule 7.

Accordingly, for good cause shown and because Petitioner does not object, the Court **HEREBY GRANTS** Respondent's motion to supplement the record (Doc. # 53) with any transcripts or documents from the state court that have not already been made a part of the record before this Court.

**IT IS SO ORDERED.**

**/s/ Terence P. Kemp**  
**United States Magistrate Judge**